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EX PARTE NO. 582

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PUBLIC VIEWS ON MAJOR RAIL CONSOLIDATIONS

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COMMENTS OF THE NATIONAL MINING ASSOCIATION

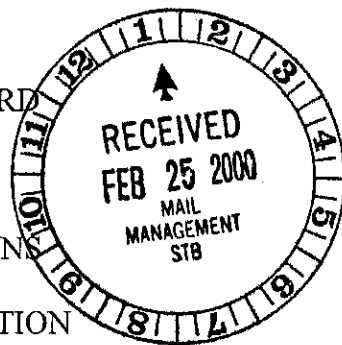
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February 29, 2000

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EX PARTE NO. 582  
PUBLIC VIEWS ON MAJOR RAIL CONSOLIDATION  
COMMENTS OF THE NATIONAL MINING ASSOCIATION

MARCH 9, 2000



INTRODUCTION AND SUMMARY

The National Mining Association (NMA) represents companies engaged in producing coal, metallic ores, and nonmetallic minerals, and manufacturers of mining machinery and equipment. NMA member companies produce approximately two-thirds of the coal consumed in the United States or exported to other countries, and most of the U.S. production of metallic ores and other nonmetallic minerals. The Nation's railroads are principal sources of freight services required to transport mining commodities, especially coal, to supply markets in the U.S. and in other countries.

Mining is today a crucial factor for U.S. national security and economic strength, making available numerous feedstock minerals for consumption in the power generation, manufacturing, transportation, agriculture, construction, chemicals and metals production, and defense sectors. The U.S. has substantial reserves of coal, metallic ores, and nonmetallic minerals, and an array of productive minerals producers and processors supplying mining commodities to the Nation. Joined with minerals producers and processors, the Nation's railroads are a vital force in establishing a distribution system required to enable all of the mineral consuming sectors to receive the mining commodities needed at user destinations often located hundreds of miles from mines in the east, the midwest, and the west. It is, therefore, imperative that the Nation's network of privately owned and operated railroads be capable of providing effective services as measured by performance standards.

With that in mind, it is recommended that standards be established for levels of services in selected categories of railroad freight, and that the railroads furnish reports periodically in relation to the standards to the Surface Transportation Board for subsequent reporting to the public. The performance standards should be developed in consultation with railroad commodity producers and shippers, the carriers, and national security representatives.

In a directly related action, NMA and the Association of American Railroads, on December 14, 1999, signed an agreement on coal transportation which places a priority focus on matters dealing with railroad services. In January 2000 a Joint Coal Logistics Committee established pursuant to the NMA-AAR agreement held its first meeting. Among the items on the meeting agenda was discussion on measuring the quality of railroad services. This will be an element of the Committee's deliberations in the coming months as the cooperation of our industries continues pursuant to the joint agreement.

Major rail consolidations in the west, vis-à-vis Union Pacific Railroad acquisition of Chicago & Northwestern Transportation Company and Southern Pacific Railroad, and in the east, vis-à-vis acquisition of Conrail by CSX Transportation and Norfolk Southern Corporation, have placed serious stresses on the freight transportation systems, stresses that compounded difficulties with railroad services already occurring during the 1990's due to rising demands for railroad services. The emerging services problems became exacerbated by difficulties encountered by the carriers in rationalizing merged systems. That, in turn, caused significant losses to commodity producers and shippers having no effective transportation alternatives to the carriers as they attempted to normalize the use of merged assets, including trackage, locomotives, railcars, train crews, train dispatching and control centers, and other carrier manpower.

The difficulties following the UP/C&NW/SP merger transactions in the west now appear to be overcome in general after many months of services failures encountered by commodity producers and shippers. In the east, more must still be done to improve services following the acquisition of Conrail by CSXT and NS in mid-1999. In each of those major rail consolidations the STB maintained oversight on the implementation of the respective transactions. However, such oversight would have been more practicable had performance standards for railroad services been in place. That experience should lead now to the establishing of railroad performance standards for evaluation of the adequacy of railroad services crucial to the Nation.

#### RAILROAD PERFORMANCE STANDARDS ARE SYSTEMIC CONSIDERATIONS WITH RESPECT TO ENABLING COST EFFECTIVE SUPPLY OF MINING COMMODITIES

The importance of the Nation's railroads with respect to enabling cost effective supply of mining commodities is both obvious realizing that mines often are located hundreds of miles from minerals consumers, and shown clearly by examining the use of rail carriers to transport coal and other nonfuel minerals. For example, looking at figures for 1998, 45% of total originated railroad freight tonnage was coal, and another 10% represented other metallic and nonmetallic products of mines in the U.S. In fact the railroads' leading commodity was coal, the low cost fuel of choice for generating 57% of the Nation's electricity. Nine out of every ten tons within the 1.1 billion tons of coal produced annually in the U.S. are consumed to fuel generation of electricity.

Cost effective supply of mining commodities, coal in particular, requires timely, reliable interaction between mining operations and arrivals of trains at mine loadouts for distribution of mining products to power plants and other consumer facilities. To control mining costs, mine operators make substantial capital investments in modern mining and minerals processing machinery and equipment, and must program the use of those assets and schedule mineworkers engaged in extracting, processing, and loading mining products judiciously. Their ability to do so is affected highly by how well rail carriers perform in meeting schedules for train arrivals at mine loadouts ready to initiate shipments to minerals consumers. Failure to arrive on time causes storage problems at the mines and often creates a need for overtime labor to operate mine loadouts, factors that negatively impact cost effectiveness of mining products, recognizing that

the delivered price reflects both the costs of producing the mining products and the costs incurred in distribution.

The reliability and timeliness of train arrivals at mines are equally important to large and small producers of mining products. Certainly, those qualities for railroad services are shared needs for originators of minerals shipments, i.e. mine operators, and originators of other railroad commodities such as chemicals and grain. The quality of railroad services, therefore, must be considered with respect to a variety of products as they are readied for railroad services by producers at the originations of the rail traffic.

The United States General Accounting Office, in a report<sup>a</sup> dated April 1999, examined changes in railroad rates and service quality since 1990 (underlining added for emphasis). The GAO reported:

The quality of rail service cannot be measured currently. There are few industrywide service measures. The rail industry has recently developed quantitative measures of performance, such as average train speed. Although these measures may be helpful in assessing some aspects of service, they are more an evaluation of railroad operating efficiency rather than quality of service.

We agree with the GAO's statements on this subject. While it is interesting to know average train speeds in moving selected freight commodities, such as coal, on specific rail carriers, as now reported by the Association of American Railroads for Class I Railroads, that does not represent a measure of railroad service which carries significance to a producer of coal or other mining products. The commodity producer rather must focus on timeliness and reliability of railroad services as that has implications for cost effectiveness in the production process. A substantive performance standard would measure the timeliness and reliability of the rail carrier in providing trains on time at the mines, with adequate railroad equipment and crews ready for mine loadout operations.

No such standard exists today. The current railroad reports furnished by the Association of American Railroads cover four areas: freight cars on line, average train speed by type of train, average terminal dwell time, and bill of lading timeliness. Those statistics, using the words of the GAO in the April 1999 report mentioned earlier, "are more an evaluation of railroad operating efficiency rather than quality of service." On the other hand, performance measures in regard to railroad services, we believe, should incorporate levels of on time service, not only at the termination of commodity shipments, but also, and particularly with respect to mining products, at the origination, i.e. the mines. Of course, it may be warranted to group some categories of railroad commodities in the course of setting performance standards. For example, in reporting on a Class I Railroad's average train speed by type of train, figures published today provide groups such as intermodal, coal unit, grain unit, etc. We believe it is not unreasonable to involve commodity producers and shippers, rail carriers, and national security representatives,

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<sup>a</sup> Railroad Regulation: Changes in Railroad Rates and Service Quality Since 1990, United States General Accounting Office, April 1999, GAO/RECD-99-93, at page 7.

among others, in cooperative efforts with the Surface Transportation Board, to establish railroad services standards commensurate with requirements for U.S. national security and economic strength.

#### RAILROAD PERFORMANCE STANDARDS SHOULD INCORPORATE GUIDELINES ON COMMUNICATIONS AMONG COMMODITY PRODUCERS, SHIPPERS, AND CARRIERS IN REGARD TO TRAIN DISPATCHING AND OPERATIONS

Vastly larger service areas and a need to unify railroad services following railroad mergers to enable effective use of railroad equipment and manpower in the new carrier organizations have resulted in difficulties with train dispatching, command and control functions and coordination of train operations. In particular, mine operators have encountered problems in obtaining current information on the status of trains expected at loadouts. In the same sense that standards should be established in regard to railroad services a concomitant need exists for developing guidelines on effective communications among commodity producers, shippers, and carriers in regard to train dispatching and operations.

A closer look is required to determine how modern information technology, interactive communications systems, and train detection techniques are engaged to link today's railroad centers for train dispatching, command and control functions with train crews and with operations personnel in local railroad units, and at traffic originations, e.g. mine loadouts. Again, as in the objective for developing performance standards for railroad services, the purpose for setting guidelines for effective communications is to increase the cost effectiveness of the commodity producer that must rely on railroad services for distribution of rail dependent commodities. Here, however, there is another avenue for increasing cost effectiveness, that being how well the carrier deploys railroad assets and manpower for optimal utilization in providing freight services and obtaining increased benefits from services furnished.

Coal producers and shippers are highly interested in seeing that rail carriers operate their systems in a cost effective manner. Not only is coal the railroads' leading commodity, coal producers and shippers often must rely on a single rail carrier to acquire essential transportation services. That is borne out clearly by examining railroad revenue-to-variable cost ratios for particular railroad commodities. During the 7-year period, 1990 to 1996, the ratio that exceeded 180 percent for coal was 70% higher than for all freight, including coal, on average.

#### CONCLUSION

The views of the mining industry on major rail consolidations can be summarized in five points.

- First, major rail consolidations must not result in widening railroad market dominance by eliminating intramodal competition where such competition is in existence. Market dominance occurs where a single carrier represents the sole source of effective transportation for the movement of the same commodity from the same origination to the same termination, a condition frequently faced in coal distribution.

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- Second, performance standards for railroad services should be established to measure the quality of railroad services, not simply show the efficiency of railroad operations.

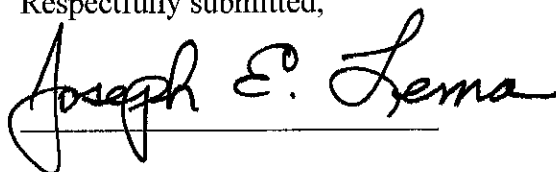
- Third, railroad services standards should focus on timeliness and reliability of train arrivals not only at freight terminations, e.g. power plants, but also at freight originations, e.g. coal mines.

- Fourth, the development of railroad services standards is a matter that should be acted upon cooperatively by commodity producers and shippers, rail carriers, national security representatives, and others, working in concert under proceedings of the Surface Transportation Board, an activity that should be undertaken today.

- Fifth, the development of railroad services standards should be accompanied by the formulation of guidelines for effective communications among train dispatch, command, and control centers, train crews, local railroad units, and commodity producers and shippers in order to increase cost effectiveness of commodity production and distribution attributable to timeliness in train utilization.

In closing, the mining industry represented by the National Mining Association and NMA's member companies have a strong desire to collaborate with all parties appropriately involved in a process of implementing steps to assure that the Nation's railroads are positioned to provide cost effective services that are crucial to the Nation's security and to the strength of the U.S. economy.

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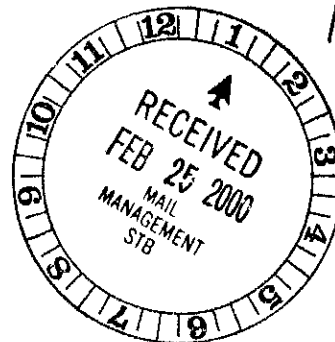
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Mining is today a crucial factor for U.S. national security and economic strength, making available numerous feedstock minerals for consumption in the power generation, manufacturing, transportation, agriculture, construction, chemicals and metals production, and defense sectors. The U.S. has substantial reserves of coal, metallic ores, and nonmetallic minerals, and an array of productive minerals producers and processors supplying mining commodities to the Nation. Joined with minerals producers and processors, the Nation's railroads are a vital force in establishing a distribution system required to enable all of the mineral consuming sectors to receive the mining commodities needed at user destinations often located hundreds of miles from mines in the east, the midwest, and the west. It is, therefore, imperative that the Nation's network of privately owned and operated railroads be capable of providing effective services as measured by performance standards.

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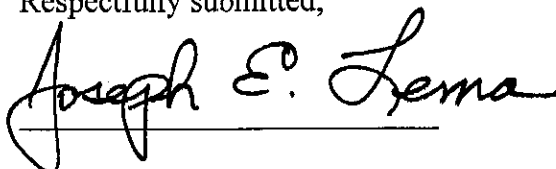
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